

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

BRENDA K. FITZWATER,

Plaintiff,

v.

**CIVIL ACTION NO. 2:07cv 46
(Maxwell)**

**MICHAEL J. ASTRUE,
COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

ORDER

On January 7, 2008, Plaintiff filed a Motion to Dismiss. On January 29, 2008, Magistrate Judge Kaull filed his Report and Recommendation recommending the motion be granted, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections have been filed.

Upon examination of the report from the Magistrate Judge, it appears to the Court that it accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaull's proposed Report and Recommendation be, and hereby is, accepted in whole. Accordingly, it is hereby

ORDERED that the Plaintiff's Motion to Dismiss be, and the same hereby is, **GRANTED**. It is further

ORDERED that the above-styled civil action is **DISMISSED** and stricken from the Court's docket.

The Clerk of Court is directed to send a copy of this Order to counsel of record.

ENTER: June 2, 2008

/s/ Robert E. Maxwell
United States District Judge